IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10-04-2007

CORAM :

THE HONOURABLE MR.JUSTICE A. KULASEKARAN

W.P. No. 11297 of 2007

and

M.P. Nos. 1 and 2 of 2007

1. P. Venkatesh
2. H. Senguttuvan
3. Bama Senguttuvan
4. K. Maheswari Ammal
5. T.N. Venkatraman
6. S. Srikanth .. Petitioners

Versus

1. The Chairman
   Tamil Nadu Housing Board
   Anna Nagar
   Chennai

2. The Executive Engineer
   Tamil Nadu Housing Board
   Anna Nagar
   Thirumangalam
   Chennai

3. The Chairman
   Chennai Metropolitan Development
   Authority
   Thalamuthu Natarajan Maligai
   Egmore, Chennai - 600 008

4. P. Kalimuthu, IPS., DGP (Retd)

(R4 impleaded as per Order dated 10.04.2007 made in MP No.3 of 2007 in WP No. 11297 of 2007) .. Respondents

Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus as stated therein.

For Petitioners : Mr. V. Manisekaran
For Respondents : Mr. P.S. Raman
Additional Advocate General
assisted by Mr. R. Girirajan for RR1 & 2

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Mr. J. Ravindran for R3
Mr. K.V. Sundararajan for R4

ORDER

Though the Miscellaneous Petitions are listed today for hearing, by consent of counsel for both sides, the writ petition itself is taken up for final disposal.

2. The prayer in this Writ Petition is for a Writ of Mandamus forbearing the respondents from taking over the property of garage site on the Eastern side of the block No.302, Belly Area, Anna Nagar, Chennai - 600 040, which were sold to the petitioners herein and consequently grant permanent injunction restraining the respondents from interfering with the peaceful possession and enjoyment of the petitioners property.

3. The case of the petitioners is as follows:-

The Petitioners have purchased their respective flats in Block No.302, which consists of three floors of two flats each, situate in Part of Thirumangalam Village, Anna Nagar, Chennai. On the Eastern side of the said block No.302, the respondents 1 and 2 earmarked a site for garage. The respondents 1 and 2 herein allotted the said site for garage in favour of the petitioners, which is mentioned in Schedule III of the respective Sale Deeds executed in their favour. The petitioners have put up temporary shed and using the said garage for parking their vehicles, which was removed by the respondents 1 and 2 on 02.02.2007 unauthorisedly without any notice.

4. The case of the respondents 1 and 2 is as follows:-

The garage, referred by the petitioners, is not at all sold to them. Even the sketch relied on by the petitioners, which is enclosed in Page No.45 of the typed set of papers disclose that the said site for garage, having access from 40 feet road is shown as a separate property, whereas, the flats sold to the petitioners is in block No.302. The Petitioners have not at all paid any sale consideration for the said garage. The Schedule III of the Sale deeds relied on by the petitioners is only a licence granted to them to park their vehicles within the said block No.302, not the disputed site for garage. On 29.01.2007, the site for garage was allotted to the fourth respondent herein for having rendered service for the Special Task Force. The respondents 1 and 2 have also applied to the authorities for conversion of the garage into residential area, which was also approved on 23.01.2007 and thereafter, the fourth respondent also obtained planning permission from the corporation on 15.03.2007.

5. The learned counsel appearing for the petitioners, relying on the affidavit filed in support of the writ petition submitted that the garage, which is in dispute, was allotted to the petitioners and they have been using it for parking their

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vehicles, hence, prayed this Court to restrain the respondents from interfering with the peaceful possession and enjoyment of the same by the petitioners.

6. The learned Additional Advocate General Mr. P.S. Raman appearing for the respondents 1 and 2 submitted that the said garage was not sold to the petitioners, admittedly they have not paid any amount for the same. The site was originally reserved for public purpose, later, the Government has taken a policy decision to allot the same to the fourth respondent herein, who has rendered service in Special Task Force, following the same, it was allotted to him. Even prior to allotment to the fourth respondent, the respondents 1 and 2 have applied to the authorities for conversion of the said land and the same was also granted on 23.01.2007 and prayed for dismissal of the writ petition.

7. On the above contention this Court heard the learned standing counsel for the third respondent as well as the learned counsel for the fourth respondent. The learned counsel for the fourth respondent submitted that the land was allotted to his client on 29.01.2007 and thereafter, he has applied to the Corporation of Chennai for planning permission, which was also granted on 21.03.2007 and they prayed for dismissal of the writ petition.

8. This Court carefully considered the argument of the learned counsel for both sides and perused the materials on record. It is an admitted fact that the petitioners have not paid any sale consideration for the land in dispute. Even in the sale deeds executed in their favour, the same was not included. The averments that in schedule III of their respective sale deeds the disputed land was included is also incorrect, indeed, the petitioners and other owners of flats in block No.302 were permitted to park their vehicles for not exceeding three hours continuously, that too, within block No.302, hence, the temporary shed put up by them is unauthorised one.

9. In view of the said reasons, the writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

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To

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   Thalamuthu Natarajan Maligai
   Egmore, Chennai - 600 008

1 cc to Mr.R. Girirajan, Advocate, sr. 23634
1 cc to Mr.K.V. Sundarrajan, Advocate, sr. 23004
1 cc to Mr.V. Manisekaran, Advocate, Sr. 23062

WP No. 11297 of 2007

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